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Supreme Court, U. S.
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IN THE

Supreme Court of the United States

October Term 1948

No. 191

THE SUPERIOR COURT OF THE STATE OF CALIFORNIA IN AND FOR THE COUNTY OF LOS ANGELES and FARMER BROS. CO., a corporation, the real party in interest,

Petitioners,

vs.

GAY LILLEYBLOOM, RUSSELL MARKS, L. L. SYLVANE, HOMER FORD and IRV MAGISEN,

Respondents.

PETITIONERS' REPLY BRIEF.

RUSSELL E. PARSONS,
306 West Third Street, Los Angeles 13,
Attorney for Petitioner Farmer Bros. Co., a corporation, the real party in interest.

HAROLD W. KENNEDY,
County Counsel,
WILLIAM E. LANGBEAUX,
Deputy County Counsel,
1180 Hall of Records, Los Angeles 12,
Attorneys for Petitioner, The Superior Court.

The Myers Legal Press, Los Angeles. Phone VAndike 9007.

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SUBJECT INDEX

PAGE

I.

Petitioners' reply to respondents' statement 1

II.

Argument 4

III.

Conclusion 19

TABLE OF AUTHORITIES CITED

CASES.

	PAGE
Blaney, In re, 30 A. C. 648, 184 P. 2d 892	9, 10, 16
C. S. Smith Met. Mkt. Co., Ltd. v. Lyons, 16 Cal. 2d 389	16
Electric Bond & Share Co. v. Sec. & Exchange Com., 303 U. S. 418	18
Gompers v. Buck's Stove & Range Co., 221 U. S. 419, 55 L. Ed. 797	9
McKay v. Retail Automobile Salesmen's Local Union No. 1067, 16 Cal. 2d 311	16
Penfield Co. v. Sec. & Exchange Comm., 330 U. S. 585	9
People v. Dail, 22 Cal. 2d 642	14
Porterfield, In re, 28 Cal. 2d 91	14
Printing Specialties and Paper Converters Union, Local 388, A. F. L., and W. J. Turner v. H. F. LeBaron, Regional Director of the 21st Region of the N. L. R. B., U. S. Ct. of Appls, 9th Cir.., Dec. 13, 1948, Case No. 11894	14, 15
United States v. Petrillo, 332 U. S. 1	18
United States v. United Mine Workers of America, 330 U. S. 198	9
Washer, In re, 200 Cal. 609	9

STATUTES

California Constitution, Art. XI, Sec. 7½	19
Government Code, Sec. 26524	19
Government Code, Sec. 26529	19
Government Code, Sec. 27640	19
Government Code, Sec. 27641	19
Government Code, Sec. 27642	19
Government Code, Sec. 27643	19
Government Code, Sec. 27644	19
Los Angeles County Charter, Art. IV, Sec. 14	19
Los Angeles County Charter, Art. XI, Sec. 20	19
United States Constitution, First Amendment	4
United States Constitution, Fourteenth Amendments	4

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PETITIONERS' REPLY BRIEF.

I.

Petitioners' Reply to Respondents' Statement.

1. Respondents in effect state that we did not fully apprise the Supreme Court of the United States of the facts in this case. We say that we brought to the Supreme Court the full record before the Supreme Court of the State of California, and had these Respondents at any time desired to call the attention of the Supreme Court to the fact that they had procured a dismissal of the action, they could have done so by appropriate proceedings before the Supreme Court of the State of California and before this record had been prepared, so that we, the Petitioners, might fully have replied thereto. But this

they did not seek to do. Respondents even say "Unbeknown to Respondents or to the California Supreme Court, Petitioner on October 9, 1947, dismissed the Complaint herein with prejudice." We do not understand why respondents go *de hors* the record, for the facts are some of counsel upon the briefs for respondents actually procured the dismissal. As we asserted in our Answer to Motion to Dismiss Writ of Certiorari the record filed in this Court on the Writ for Certiorari was complete and included the entire record for the Supreme Court of California. Again we call your attention to the fact that when the Petition for Writ of Certiorari was filed, no effort was then made by the respondents herein in any respect to augment the record or to assert the propositions they now call to the attention of the Court in connection with the dismissal. Merely by way of accommodating counsel, and, to be frank with the Court, we stipulated to the fact of the dismissal; but we again assert that this is not properly a part of the record before this Court and that it was injected by the respondents at this late date for the purpose of avoiding a ruling by this Court upon the merits as to the constitutionality of the statute involved, namely, the "hot cargo and secondary boycott law" of California. The Supreme Court of California did not deny the authority of the Superior Court to enforce the punishment imposed by that Court if the statute involved be held valid. Its determination turned upon the unconstitutionality of the statute involved under the First and Fourteenth Amendments. Hence,

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this issue is now squarely before this Court. No issue was raised in the Courts below, nor was that issue passed upon, as to the dismissal by Farmer Bros. Co., nor was it raised in opposition to the Petition for Certiorari; hence, it is not properly before this Court, nor the reasons therefor—which we might adequately supply if the opportunity had been given, but we cannot now *de hors* the record, neither can respondents. We brought to this Court the complete record before the Supreme Court of California. The sole issue is the constitutionality or unconstitutionality of the California statute forbidding combinations to bring about the secondary boycott or the so-called hot cargo. It was these respondents who challenged the constitutionality of this law now in question, first, in their Demurrers to the Complaint originally filed, and then again when they were brought before the Court pursuant to a citation for contempt. They raised the issue again in the trial of the contempt proceeding and elected to stand alone upon that proposition—that was, that the law was unconstitutional. Now they seek to avoid a decision by this Court with the bald statement that petitioners failed to raise the constitutionality. We met this issue and contested it upon every occasion that it was raised by the respondents. [See Demurrer, R. p. 57; see Demurrer Clarence C. Todd and John C. Stevenson now appearing on the *Amicus* Brief for the California State Federation of Labor, p. 69; p. 107 Demurrer of Respondent Sylvane to Petition re Contempt.]

II.

Argument.

1. Respondents contend that Farmer Bros. Co. dismissed its Complaint "unbeknown to respondents." This is beyond the record and is typical of those kind of statements, for it does not comport with the facts. Some of counsel upon the Brief for Respondents procured the dismissal. It would be *de hors* the record to recite the reasons therefor and we think it has no appropriate place in these proceedings. The Temporary Restraining Order has never been dissolved by order of Court and these respondents have never sought to bring this about either in the trial Court or before the Supreme Court of the State of California. The Supreme Court of California did not deny the authority of the Superior Court to enforce the punishment imposed by that Court if the statute involved be held valid. Its determination of the issues turned upon the unconstitutionality of the statute involved under the First and Fourteenth Amendments, which issues were raised by these respondents as hereinbefore indicated, hence, the issue is now squarely before this Court, the challenge of constitutionality of the law of the statute in question having been accepted by these petitioners and it was fully debated before the trial Court and the Supreme Court of California. May we respectfully direct your attention to the Opinion of Judge Stephens who tried the contempt matter upon the merits. [R. 170-174.]

> "Extensive briefs and oral arguments were presented by both sides upon the assumption that this proceeding necessarily involves the so-called Hot Cargo Act (Secs. 1131-1136 of the Labor Code)."

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"Before discussing that Act, however, let us examine the Order of the Court and the proven acts of defendants herein, for these are the controlling factors, rather than any theories assumed to be applicable thereto. In this connection it must be borne in mind that peaceful picketing must be for a lawful purpose and by lawful means in order to claim such constitutional protection. (James v. Marinship Corp., 25 Cal. 2d 721.)"

"By the terms of the order defendants are 'restrained and commanded to desist and refrain from doing, or attempting to do or causing to be done, by any means, method or device whatsoever, any of the following acts: combining or agreeing to cease performing or to cause any employee of (certain named carriers, suppliers and customers of plaintiff) or any other customer, supplier or carrier of plaintiff to cease performing any services for said employees, (*sic*) or any of them, or causing or agreeing to cause any loss or injury to such employers or any of them, for the purpose of inducing or compelling such employers or any of them to refrain from doing business with plaintiff or furnishing any supplies to plaintiff in its business—or carrying, shipping, or receiving from or delivering to plaintiff any freight or merchandise for plaintiff; or (b) in any way carrying out or effectuating any such combination or agreement, or in any way giving any notices or making any threats intended or tending to effectuate or carry out any such agreement; (c) provided however, that nothing herein is intended or shall be construed to prohibit peaceful picketing when the same is not done pursuant to or for the purpose of carrying out any combination or agreement herein restrained or enjoined.'

"Now let us consider some of the acts of defendant in the light of this order. Defendants, in combination with each other, and with other persons, caused plaintiff's trucks to be followed to the dock or wharf of the Indies Terminal Co. at the harbor, where a certain shipment of coffee belonging to plaintiff awaited delivery to plaintiff; upon arrival at the dock the person following the truck hurriedly telephoned to defendant Lillefloren; the latter appeared within a few minutes with other men who immediately put on the arm bands of pickets and paraded in front of the door from which the coffee was about to be taken; defendant Lillefloren then notified the superintendent of the Indies Terminal Co. not to deliver said coffee to plaintiff and notified the employees of Indies Terminal Co. not to check out or deliver said coffee to plaintiffs; the checker thereupon telephoned to someone for instructions and as a result refused to continue the work of checking; at plaintiff's request the superintendent thereupon indicated his willingness to allow plaintiff's representatives to themselves load the coffee upon its truck, giving their receipt therefor; thereupon defendant Lillefloren threatened that if this were done he would throw a picket line around the entire wharf and keep the picket line in effect 24 hours per day. The superintendent then advised defendant Lillefloren that this coffee belonged to plaintiff, that he had not legal right to prevent plaintiff from taking it and that he would be violating his duty if he did so; nevertheless defendant renewed his threat; the superintendent thereupon stated that they had other ships arriving at the wharf, one due within 24 hours, and that he could not risk having their entire business tied up, and for that reason refused to allow plaintiff to take the coffee. Plaintiff's representatives then left with their truck and

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defendant Lillefloren and his pickets also left. The wharf of the Indies Terminal Co. is 1000 feet long and does a general business of receiving and shipping cargoes in intrastate, interstate and foreign commerce.

"Defendants contend that the eventual purpose of their action was to bring about the unionization of plaintiff's employees—a lawful purpose. But does this make all intermediate purposes lawful? The very cases upon which defendants rely hold to the contrary.

"The immediate purpose of the above actions of defendants was to prevent plaintiffs from obtaining certain specific bags of coffee to which they were legally entitled; and the immediate and sole purpose of the threat to picket and tie up the entire dock of Indies Terminal Co. was to compel the superintendent of Indies Terminal Co. to refuse to allow plaintiff to take its own coffee to which it was legally and immediately entitled—an unlawful act. Not only was the threat made for that purpose but it succeeded. That it did succeed and that the action of the Indies Terminal Co. in refusing to allow plaintiff to take its own coffee was unlawful is demonstrated by the fact that a few days later by an independent action in this court (the file of which was introduced in evidence herein) plaintiff received an order of this court for such delivery and pursuant thereto received delivery when accompanied by 12 armed Deputy Sheriffs.

"A similar occurrence took place at the dock of the General Steamship Co. where defendants Lillefloren and Sylvane appeared with their same roving pickets who took their arm bands from their pockets and proceeded to picket so long as plaintiff's representatives were there, prepared to get their coffee and left when the latter left.

"Can anyone say that this was peaceful and lawful picketing? Can it really be said that the above actions, including the successful threat of picketing for the purpose of compelling a neutral to do an unlawful act, were the exercise in good faith of free speech for the purpose of advising the public of the existence of a labor dispute? Finally, can the picketing or threat of picketing of an entire dock 1000 feet long, where the ships of all nations come and go, thus injuring not only the dock company but large numbers of shippers and consumers having no connection whatever with the dispute, possibly be justified upon the theory of the interdependence of economic interest of all engaged in the same industry?

"However, the industry of counsel in presenting arguments and quoting authorities which they in good faith believe sufficient to sustain their respective positions, with relation to the so-called Hot Cargo Act requires some discussion of that subject.

"If the provisions of the Act are valid and constitutional, it forms a sufficient basis for the order of the Court which, as I have already indicated, the defendant violated.

"It is contended by defendants that that Act is violative of the free speech provisions of both the federal and state constitutions, in so far as it prohibits the secondary boycott and secondary picketing. The right of labor to engage in both of these activities, prior to the enactment of the Act in question, is thoroughly established in this state by decisions of the Supreme Court and District Courts of Appeal. Pierce v. Stablemen's Union, 156 Cal. 70; McKay v. Retail Auto etc. Union, 16 Cal. (2d) 311, and cases there cited."

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Therefore, it can be plainly seen that the respondents raised the question and having prevailed in the Supreme Court of California now seek to avoid a hearing upon the merits. The matter is neither moot nor is this Court justified in dismissing this proceeding, and even if it were moot, this Court under the authorities, would have a right to pass upon the constitutionality of the statute involved. See *Penfield Co. v. Sec. & Exchange Com.*, 330 U. S. 585, 592; *U. S. v. United Mine Workers of America*, 330 U. S. 198, 293. More especially so where the interests of the public are involved and where there should be an adjudication on the merits as to the constitutionality of the statute involved.[1]

The cases relied upon by respondents are certainly not in point, in fact, they cite an old case where the fine was payable to the complainant. That is not the situation here. These respondents were ordered to pay fines to the People of the State of California and to serve time in jail. The case relied upon by the respondents, *Gompers v. Buck's Stove & Range Co.*, 221 U. S. 419, 55 L. Ed. 797, itself says:

> "When the main case was settled, every proceeding which was dependent on it, or a part of it, was also

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[1]May we direct your attention to the fact that *In re Blaney*, 30 A. C. 648, 184 P. 2d 892 [R. 181], which is the case relied upon by the Supreme Court of California, discussed the constitutionality of the statute involved at great length. That issue had been raised upon a Writ of Habeas Corpus and there was no available remedy by which that case could reach the Supreme Court of the United States. It is still waiting to go to trial upon the merits; in fact, under California practice there is no means by which a Petition for Rehearing may be had in case of Habeas Corpus. See *In re Washer*, 200 Cal. 609 [R. 218].

> necessarily settled,—*of course, without prejudice to the power and right of the court to punish for contempt by proper proceedings.*" (Emphasis ours.)

Of course, in this case, there were proper proceedings by independent Affidavits and Complaint charging contempt and a trial thereon resulting in conviction.

2. The Constitutionality of the California Hot Cargo Act is squarely before this Court notwithstanding the contention of the respondents that the constitutionality of such statute is not involved in this appeal.

The decision in the case at bar relied entirely upon the decision in *In re Blaney, supra.* [R. 181.]

The Supreme Court of California based its decision upon *In re Blaney, supra,* in this language:

> "The temporary restraining order follows closely the language of the Hot Cargo Act (Lab. Code, §§ 1131-1136) which was considered and found invalid in In re Blaney, 30 Cal. (2d) 643 (184 P. (2d) 892)." [R. 216]

In the *Farmer Bros. Co.* case, picketing alone is not involved, in fact, the injunction itself specifically provided:

> "Provided, however, that nothing herein is intended or shall be construed to prohibit peaceful picketing when the same is not done pursuant to or for the purpose of carrying out any combination or agreement herein restrained or enjoined." [R. 55]

This law aims not at peaceful picketing but at combinations, agreements, and unlawful conspiracies. Here the activities complained of went far beyond peaceful picketing. These respondents were attempting and did prevent common carriers from carrying out their duty under the

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law. It cannot be said that in this case the respondents were attempting to publicize a labor dispute, they went far beyond that. They threatened common carriers that if they delivered merchandise to the petitioner Farmer Bros. Co., which merchandise it owned and to which it was entitled, they would tie up neutral common carriers' docks, those of the General Steamship Co. and Indies Terminal Co., and prevent the unloading of ships. This was accompanied by language and conduct of a coercive nature, as recited in the Findings of the Trial Court and in the Opinion filed therewith. The respondents never at any time took the stand and neither denied nor explained their conduct. The Court found them guilty beyond a reasonable doubt. [R. 173] [See Affidavit re Contempt, R. 97 through 107.] [2]

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[2] [R. 101-103.] The Affidavit for Contempt supported by evidence at the trial recited:

"That the defendants Homer Ford, Russell Marks and Irv Magisen, together with Gay Lillefloren, directed other members of defendant unions, the names of whom are unknown to affiant, other than John Doe Baugh, who was one thereof, to form a picket line at said dock of the General Steamship Corporation, Ltd., at and in the immediate vicinity of said coffee and in front of the tail-end gates and openings of the trucks upon which the Sheriff was about to and did load the coffee in question. That said picket lines were formed and the pickets were directed by said defendants Homer Ford, Russell Marks, Irv Magisen and Gay Lillefloren to congregate immediately in front of the openings of said trucks so closely as to interfere with the loading thereof, in the manner and as is shown in 'Exhibit X' which is attached to and made a part of this affidavit and petition. That said exhibit shows three of said pickets, with picket bands on the left arm of each picket, reading 'Picket A. F. of L.' That the defendants Homer Ford, Russell Marks and Irv Magisen then went to the superintendent of said General Steamship Corporation, Ltd.'s, dock 232 and stated to him and to the officials of said company, in this language or in substance, to wit:

'You will stop the Sheriff from taking this coffee off this dock right now, or we will picket the dock; we will call off all

ployees paid therefor by common carriers such as General Steamship Corporation, Ltd., the Indies Terminal Company, and even the longshoremen unloading the steamers at the dock, none of whom were involved in the dispute with Farmer Bros. Co.

Surely a combination, agreement or conspiracy such as was demonstrated in this case could be regulated in the public welfare by the Legislature, and this the Legislature had done by the enactment of the statute involved.

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of the checkers whom you employ, who are checking goods to other customers, and we will call off the longshoremen who are unloading the ship here at the berth for you.' That the said superintendent, Mr. Reece, stated to the said defendants, in substance or effect, as follows: (Photostat)

'I can do nothing about it. We have been served with a copy of Judge Willis' injunction and, in addition, the Sheriff is taking the goods and I cannot resist him, as he has a court process for it.'

"That thereupon the said defendants Messrs. Ford, Marks and Magisen went to all of the employees of the General Steamship Corporation, Ltd., on Berth 232, to wit, all of the checkers who were then and there actively engaged in checking other merchandise to other shippers, both on and off the dock, also to all dock men engaged in handling merchandise on the dock other than that of plaintiff Farmer Bros. Co., also to the employees of General Steamship Corporation, Ltd., who were loading and unloading other merchandise to and from the dock, and also to the longshoremen who were unloading a ship on the water side of said dock or Berth 232 of said steamship company. That the said defendants Ford, Marks and Magisen then ordered all of said checkers, all of said longshoremen, and all of said dock workers, to cease working upon said dock and to cease handling any cargo, including the cargo of the said ship, merchandise on the dock belonging to persons other than Farmer Bros. Co., and ordered said checkers to cease checking merchandise of third parties to the dock or from the dock. That all of said checkers, all of said longshoremen, and all of said dock workers were then and there employees of, working for compensation, and for said General Steamship Corporation, Ltd. That all of said longshoremen and all of said dock workers were then and there employees of, working for compensation, and for said General Steamship Corporation, Ltd.

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The Complaint charging contempt and the evidence therein showed conclusively that this was not a case involving mere picketing, but an unlawful agreement to bring about a cessation of performance of duties by em-

The respondents here hide behind the cloak of free speech and it would appear from their argument that all acts of labor unions and their members are free from restraint. This is not the case. Even one of the cases

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That all of said longshoremen, all of said checkers, and all of said dock workers, then ceased to work and did not work for a period of two and one-half hours. That said checkers, dock workers and longshoremen demanded and received compensation for said two and one-half hours work stoppage, such compensation for said period in which they refused to work at the request and demand of the respondents Ford, Marks and Magisen amounting to approximately $150.00. That on one occasion during the loading of said coffee from said dock to the trucks standing at said dock, to wit, during the loading of the said 1499 sacks of coffee, one of the pickets placed before the opening to one of the trucks bumped and jostled one of the workmen furnished to the Sheriff for the loading thereof, to wit, a workman who was about to drag five sacks of coffee on a hand truck into one of the waiting trucks. That all of the matters and things hereinbefore recited occurred in the presence of the defendants Homer Ford, Russell Marks and Irv Magisen, who were personally present on the dock in the immediate vicinity of said picket line and of said loading operations. That affiant, as president of the plaintiff, protested to said defendants Ford, Marks and Magisen respecting their conduct, threats and actions. That 'Exhibit Y' attached hereto, is a photograph made on the scene at the time, and shows a portion of the picket line at the door or tail-end of one of the Sheriff's trucks, shows the method of obstructing the loading of said coffee by the Sheriff; that the persons shown at the upper right hand center of said photograph, 'Exhibit Y,' are affiant (with straw hat) talking to and protesting to said defendants Homer Ford, Russell Marks and Irv Magisen. That 'Exhibit Z,' attached hereto, is a photograph taken at the time and place hereinabove referred to and shows some of the pickets obstructing the entrance to one of the trucks being loaded, and particularly shows one of the pickets directly in front of one of the workmen attempting to load said truck."

cited by respondents, *In re Porterfield*, 28 Cal. 2d 91, 101, says:

> "The right of free speech protected by the federal and state constitutional guaranties is not an absolute right which carries with it into business and professions total immunity from regulation in the performance of acts as to which speech is a mere incident or means of accomplishment."

See also *People v. Dail*, 22 Cal. 2d 642, 666, where the Court said:

> "Labor leaders are not endowed with rights which the ordinary citizen individually does not have"

as urged by appellants.

The Congress itself has denounced activities similar to those complained of here in an effort to narrow the area of industrial strife and thus to safeguard the national interest in the free flow of commerce.

May we respectfully direct the Court's attention to the case of *Printing Specialties and Paper Converters Union, Local 388, A. F. L., and Walter J. Turner, Appellants, v. Howard F. LeBaron, Regional Director of the 21st Region of the N. L. R. B., etc., Appellee*, decided by the United States Court of Appeals for the Ninth Circuit December 13, 1948, Case No. 11894, which case ruled upon the constitutionality of the secondary boycott provision of the National Labor Relations Act, as amended by the Labor Management Relations Act of 1947 (commonly known as the Taft-Hartley Act) which, in substance or effect, is the same as the secondary boycott provisions here involved. While we recognize that this Court is not bound by such a decision, we believe it to be of considerable importance

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in this case, being an expression of a Court second only to the Supreme Court of the United States.[3]

It must be recognized that the state is not compelled to stand supinely by and to tolerate in all places and under all circumstances even peaceful picketing, and the state

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[3]*Printing Specialties and Paper Converters Union, Local 388, A. F. L., et al., Appellants, v. Howard F. LeBaron, etc., Appellee,* ..... F. 2d ..... Decided December 13, 1948, C. C. A. 9:

"It remains to inquire briefly whether the Act, as so construed, infringes the constitutional right of free speech.[2] ([2]The claim that the injunction subjects workers to involuntary servitude as prohibited by the Thirteenth Amendment is patently groundless.) We think the decision in Carpenters Union v. Ritter's Cafe, 315 U. S. 722, answers the question in the negative.[3] ([3]*Cf.*, also, United Brotherhood of Carpenters and Joiners of America v. Sperry, *supra.*) In substance the Court held that the state has the right to determine whether the common interest is best served by imposing restrictions upon the use of weapons for inflicting economic injury in the struggle of conflicting industrial forces. 'It is true,' said the Court (p. 727), 'that by peaceful picketing workingmen communicate their grievances. As a means of communicating the facts of a labor dispute, peaceful picketing may be a phase of the constitutional right of free utterance. But recognition of peaceful picketing as an exercise of free speech does not imply that the states must be without power to confine the sphere of communication to that directly related to the dispute. Restriction of picketing to the area of the industry within which a labor dispute arises leaves open to the disputants other traditional modes of communication.' And the Court added that the adoption of a contrary view would compel the state 'to allow the disputants in a particular industrial episode to conscript neutrals having no relation to either the dispute or the industry in which it arose.'

"Appellants insist that under the holding in Bakery Drivers Local v. Wohl, 315 U. S. 769, picketing directed at the product of the employer is within the area of free speech guaranteed by the First Amendment. The circumstances of that case were peculiar and the decision was influenced by the extraordinary nature of the facts involved. The Court thought it was practically impossible for the union to make known its legitimate grievances except by the means there employed and contemplated. And it observed that 'a state is not required to tolerate in all places and under all circumstances even peaceful picketing by an individual.' "

has a right to regulate such activities, as in this case it has done.

May we point out that none of the decisions relied upon by the respondents as pronounced by the Supreme Court of the State of California involved the "secondary boycott and hot cargo law" except *In re Blancy, supra*, which decision we here seek to have reviewed.

The numerous California decisions which recognize the right of the secondary boycott were decided prior to the enactment of this law, or at least did not have the law under consideration, and each of these decisions recognized that questions of public policy and the enactment of legislation to curb these activities belonged exclusively to the Legislature.[4]

We respectfully direct your attention to the majority opinion of the Supreme Court of California in *In Re Blancy, supra* [R. 19] where the Court said:

> "This subject is difficult, highly controversial, and has engendered conflicting decisions by the state courts, without any sure guide in the decisions of the United States Supreme Court. Only the most general principles have been laid down by that court. We know that when a union aims its power of sec-

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[4]In *McKay v. Retail Automobile Salesmen's Local Union, 1067*, 16 Cal. 2d 311, 331, the Court remarked that for better labor relations,

> "The remedy lies with the Legislature, not with the Courts."

And in *C. S. Smith Met. Mkt. Co. Ltd. v. Lyons*, 16 Cal. 2d 389, 400, the Court said:

> "With reference to the power that is placed in the hands of a few persons by combinations and organizations on either side that these are considerations for the law-making power, not for the Courts."

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ondary boycott against businesses not connected with the industrial dispute, it goes beyond the limits of constitutional protection and is subject to regulation by the state (Carpenters & Joiners Union v. Ritter's Cafe, *supra*), and we know also that the state cannot confine the concerted action of labor to steps against the unfair employer alone (Cafeteria Employees Union v. Angelos, *supra;* Bakery Drivers Local v. Wohl, *supra*). Somewhere between these extremes, the line may be drawn, *but it should be drawn in a case wherein the issue is directly presented, and is necessary for the decision, in order that an authoritative and binding pronouncement may be made by this court and, perhaps, by the United States Supreme Court.*" (Emphasis ours.)

Impliedly it would seem the California Supreme Court recognizes there are restrictions which the Legislature may place on the use of the secondary boycott and apparently seeks some guidance from this Court in defining the limits within which the Legislature may confine the activities of industrial combatants.

3. Respondents clearly are in error when they state that the California Supreme Court held that the Restraining Order was insufficient and invalid under California law. The California Supreme Court invoked the federal constitution and held that the law was uncertain and therefore in violation. The federal questions were raised as we have heretofore pointed out, in the first instance, by the respondents, and we have met them throughout this

litigation, and the California Supreme Court's decision turned clearly upon the constitutionality or unconstitutionality of the statute involved. We were denied relief from the Supreme Court of California in any form for the Petition for Rehearing prayed that the case be referred to the lower Court, but this was denied. The Supreme Court of California completely disregarded the separability clause, which in the last analysis should have been invoked by that Court to save the legislation.[5]

Respondents in an effort to avoid a ruling by this Court upon the merits intimate that the only one concerned in this action is Farmer Bros. Co., who has been styled the "real party in interest." That is merely a descriptive title to distinguish the company from the People of the State of California and the Superior Court. May we respectfully direct your attention to the fact that the Petition for Certiorari and the briefs in this case have all been signed by the County Counsel of Los Angeles County, State of California, who has filed a formal appearance in this case and appears in this brief and upon the Petition for Writ of Certiorari for the People of the State of California acting through its Superior Court in an endeavor to protect the Orders of that Court and to preserve its dignity, and such County Counsel acts pur-

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[5]Petition for Rehearing [R. 217-223]. As to the duty of a Court in saving legislation, see *Electric Bond & Share Co. v. Sec. & Exchange Com.*, 303 U. S. 418, together with cases collected commencing at page 18 in Petitioners' Opening Brief. See also *U. S. v. Petrillo*, 332 U. S. 1.

suant to law and is charged with the duty of protecting the interest of the People and maintaining the integrity of its Courts and the respect due the Courts and Orders issued therefrom. The County Counsel also appeared before the Supreme Court of California and upon the briefs.[6]

III.
Conclusion.

We dissent from the assertion that this case is moot and that the Petition should be dismissed, for the reasons we have heretofore set forth, and we assert that the federal question is clearly before this Court for decision upon the all-important question of the constitutionality or unconstitutionality of the statute involved. It would appear that even the Supreme Court of California asked for guidance at the hands of this Court. [R. 196.]

A decision in this case would be far reaching, for the statute involved was enacted by the Legislature in the first instance, passed over the veto of the Governor of the State of California, and enacted by the People themselves in a referendum. Surely they have fixed the policy of the state and have indicated their desire to fix the

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[6]See §7½, Article XI California Constitution; §14, Article IV of the County Charter, Los Angeles County, California; §20, Article XI of said Charter; §§26524, 26529 Government Code, State of California; §26529 Government Code provides:

> "In counties which have a County Counsel appointed pursuant to Chapter 12 of this part, the County Counsel shall discharge all the civil duties vested by law in the District Attorney."

§§27640-27644, 27642 Government Code, California. See also §25 County Charter, Los Angeles County, California.

limits of the area within which these labor disputes might be conducted in the interest of all of the people. We respectfully urge that the statute involved is constitutional and was struck down as unconstitutional on insufficient grounds. The Legislature of the State of California in 1947 struck out the war-time limitation as to the duration of this statute and made it a permanent part of our Labor Code. We respectfully urge that the decision of the Supreme Court of the State of California be reversed to the end that the statute involved herein may be held constitutional.

Respectfully submitted,

RUSSELL E. PARSONS,
Attorney for Petitioner Farmer Bros. Co., a corporation, the real party in interest.

HAROLD W. KENNEDY,
County Counsel,

WILLIAM E. LAMOREAUX,
Deputy County Counsel,
By WILLIAM E. LAMOREAUX,
Attorneys for Petitioner, The Superior Court.

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